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August 10, 2012

Ms. Marlene Dortch
Secretary
Federal Communications Commission
The Portals
445 12th Street SW
Washington DC 20554

Re: WC Docket Nos. 06-122, 10-90, 07-135, 05-337, 03-109; CC Docket Nos. 01-92, 96-45; WT Docket No. 10-208; GN Docket No. 09-51

Dear Ms. Dortch:

Hank Hultquist, Cathy Carpino, and I, all with AT&T, met with Nicholas Degani of Commissioner Pai's office on Wednesday, August 8, and Michael Steffen of Chairman Genachowski's office, Angela Kronenberg of Commissioner Clyburn's office, and Priscilla Delgado Argeris of Commissioner Rosenworcel's office on August 9. The purpose of all four meetings was to discuss two universal service-related draft orders. In our meetings with Mr. Steffen and Ms. Kronenberg, we also discussed a recently released public notice that purports to provide guidance on Tribal government engagement obligations. We summarize our discussions on these topics below.

Draft order addressing the asymmetrical 499-A form revision deadline: It is our understanding that the Commission is considering a draft order upholding a 2004 Wireline Competition Bureau (Bureau) order that established an asymmetrical deadline for filing revisions to a 499-A form. AT&T (through its legacy entity SBC Communications) and several other providers appealed this wrongly decided Bureau decision in January 2005. We did not repeat the arguments made in our application for review and repeated in numerous pleadings since 2005 (most recently in our *Contribution Methodology Reform FNPRM* comments) in these meetings. However, we did explain that the Internal Revenue Service has a three year statute of limitations that, with limited exception, applies to *all* amended returns.¹ After that three year period runs, a taxpayer has no obligation to file an amended return. In our *Contribution Methodology Reform FNPRM* reply comments, AT&T encouraged the Commission to adopt the IRS's three year deadline for all 499-A revisions. We also pointed out that these applications for review have been pending for an unacceptably long seven years.

Draft order addressing several wholesale/resale contribution issues: We understand that the Commission is considering a draft order acting on a 2010 petition for clarification filed by AT&T and several other wholesale providers of interstate

¹ See 26 U.S.C. § 6501(a), (c) (listing exceptions to the general three year limitations period, which include fraud, willful attempt to evade taxation, and failure to file).

telecommunications services.² We explained that we support Commission confirmation that wholesale carriers that follow the reseller certification procedures contained in the Form 499-A instructions would never be required to restate their revenues in the event that the Commission concludes that a reseller provided inaccurate information to its wholesale providers. In that event, we repeated our belief that the Commission should pursue the reseller directly for amounts owed to the universal service fund. We also expressed concern that the draft order may have the effect of condoning certain resellers' practice of providing inaccurate reseller certification forms and we encouraged the Commission to enforce its USF contribution rules. While not the subject of the Joint Petition, we understand that the draft order might direct resellers to provide circuit-specific information to their wholesale providers. As we explained in our *Contribution Methodology Reform FNPRM* comments, AT&T's largest reselling affiliate, AT&T Corp., already provides its underlying providers with this level of detail in its annual reseller certification forms. In the event that the Commission is going to clarify that all resellers must begin providing wholesale providers with circuit-specific information in their reseller certification forms, the Commission should provide wholesale providers with enough time to make necessary changes to their billing systems in order to begin assessing USF fees, where appropriate.

Tribal engagement guidance public notice. On July 19, the Office of Native Affairs and Policy, together with the Wireline and Wireless Bureaus, released guidance on the Tribal engagement obligation adopted in the Commission's *USF/ICC Transformation Order*.³ In our meetings with Mr. Steffen and Ms. Kronenberg, we expressed concern about both the scope and the substance of the guidance. Among other things, we noted that the public notice failed to acknowledge the pending petition for reconsideration of the Tribal engagement obligation and we encouraged the Commission to act quickly on that petition.⁴ We explained the futility of requiring eligible telecommunications carriers (ETCs) that receive only frozen interstate access support (IAS), as an example, to have discussions with Tribal governments on "needs assessment and deployment planning" and "feasibility and sustainability planning" when these ETCs use their IAS to lower subscriber line charges. Instead, we asked the Commission to limit application of the Tribal engagement obligation to those ETCs that receive high-cost support to deploy broadband on Tribal lands (i.e., Tribal Mobility Fund recipients, and, perhaps, some CAF Phase II recipients). Additionally, we expressed concern that the alleged "guidance" provided little real world guidance and the concrete examples that were included in the notice are not realistic (e.g., construct retail outlets on all Tribal lands). Finally, we asked the Commission to make clear that, as mere "guidance," USAC's auditors could

² See AT&T, CenturyLink, SureWest, Verizon Joint Petition for Clarification or in the Alternative for Partial Reconsideration, WC Docket No. 06-122 (filed June 1, 2010) (Joint Petition).

³ Office of Native Affairs and Policy, Wireless Telecommunications Bureau, and Wireline Competition Bureau Issue Further Guidance on Tribal Government Engagement Obligation Provisions of the Connect America Fund, Public Notice, DA 12-1165 (rel. July 19, 2012).

⁴ See Petition for Reconsideration of the USTelecom, CC Docket Nos. 01-92, 96-45; GN Docket No. 09-51; WC Docket Nos. 03-109, 05-337, 07-135, 10-90; WT Docket No. 10-208 (filed Dec. 29, 2011).

not audit against an ETC's adherence to this document and the examples contained therein.

Should you have any questions regarding this filing please do not hesitate to contact me at (202) 457-2041.

Sincerely,

/s/ Mary L. Henze

Mary L. Henze

cc: N. Degani
P. Delgado Argeris
A. Kronenberg
M. Steffen